

## REMARKS

### Restriction Requirement

Restriction to one of the following groups was required under 35 U.S.C. §§ 121 and 372:

- Group I: Claims 1-2, 6-8, 24 (in part), 28, 30, 31-32 and 52 drawn to a purified nucleic acid sequence, a vector containing it, a recombinant host cell comprising it, a kit comprising the nucleic acid and a method of screening a subject for an infection, based on the use of the nucleic acid.
- Group II: Claims 3-5, 24 (in part), and 38 drawn to an isolated homologue of human IL-10 polypeptide of SEQ ID NO: 10, a kit comprising it, and a method of immunosuppression comprising administering the polypeptide.
- Group III: Claims 9-10, 23, 25, and 53-54, drawn to a ligand that selectively binds to the isolated homologue of human IL-10 polypeptide of SEQ ID NO: 10, a kit containing it and a method of treating a disease comprising administering the ligand to a subject.
- Group IV: Claims 11-14, drawn to a method of identifying a compound that interacts with the isolated homologue of human IL-10 polypeptide of SEQ ID NO: 10.
- Group V: Claims 15-16, 20-22 drawn to a method of screening for a compound that modulates the activity of the polypeptide SEQ ID NO: 10.
- Group VI: Claims 17-19, 26-27, 33-37, 39 and 55 drawn to a method of diagnosing a disease state by assaying for expression of the polypeptide of SEQ ID NO: 10.
- Group VII: Claims 40, 41 and 43-44 drawn to a vaccine and a method of inducing an immune response comprising using the vaccine.
- Group VIII: Claims 42 and 56-57 drawn to a method of treatment of a disease comprising administering a vaccine.
- Group IX: Claims 45-50, drawn to a method of cleansing a biological sample of an infection by a herpes virus.
- Group X: Claim 51, drawn to a diagnosis method comprising using a ligand to detect the presence of a polypeptide of SEQ ID NO: 10.

### Response to Restriction Requirement

Applicant elects Group I, encompassing Claims 1, 6-8, 24, 28, 30-32, 52, as well as new Claim 58, drawn to a purified nucleic acid sequence, a vector containing it, a recombinant host

cell comprising it, a kit comprising the nucleic acid and a method of screening a subject for an infection, based on the use of the nucleic acid. Claim 2 is canceled without prejudice.

### **Species Election Requirement**

Applicant was required to elect a single species from the following:

Nucleic acid sequences: SEQ ID NO: 1-9;

Polypeptide sequences: SEQ ID NO: 10; or

A ligand that binds to the polypeptide of SEQ ID NO: 10.

### **Response to Species Election Requirement**

In accordance with Applicant's election of Group I above, drawn to a nucleic acid sequence, Applicant elects SEQ ID NO: 1. Claims 1, 6-8, 24, 28, 30, 40-44, 52 and 58 read on the elected species.

Applicant notes that Claim 1 is amended to be generic to SEQ ID Nos: 1-9. Applicant understands that, upon allowance of a generic claim, Applicants will be entitled to consideration of claims, such as withdrawn Claims 31-32, which are drawn to additional species that depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 C.F.R. § 1.141.

### **Request for Rejoinder**

Upon allowance of Group I claims, Applicant respectfully requests rejoinder of withdrawn Claims 31, 32 and 40-44, which are amended to be ultimately dependent on the elected Group I claims and include all the limitations of Claim 1.

### **No Disclaimers or Disavowals**

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not

Application No.: 10/580,922  
Filing Date: March 15, 2007

reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: March 26, 2010

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